

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917

BUREAU OF INDIAN AFFAIRS)	
GREAT PLAINS)	FINAL ORDER
STANDING ROCK RESERVATION)	
)	
Respondent)	
)	DOCKET NO.: RCRA-08-2006-0002

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

09.12.06
DATE

SIGNED
Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. RCRA-08-2006-0002

IN THE MATTER OF)	
)	
Bureau of Indian Affairs Great Plains)	
Regional Office Roads Department and)	
Standing Rock Agency Branch of Roads)	CONSENT AGREEMENT
)	
(BIA Roads Shop, Building 184)	
Proposal Avenue,)	
Standing Rock Reservation)	
Fort Yates, ND 58538))	
)	
Respondents.)	
_____)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondents, United States Bureau of Indian Affairs Great Plains Regional Office Roads Department and Standing Rock Agency Branch of Roads (BIA), by their undersigned representatives, hereby consent and agree as follows:

1. On February 27, 2005, Complainant issued a Complaint alleging certain violations of Section 9006 of the Resource Conservation and Recovery Act (hereinafter, "RCRA"), 42 U.S.C. § 6991e. The Complaint proposed a civil penalty for the violation alleged therein.
2. Respondents admit the jurisdictional allegations of the Complaint and neither admit nor deny the specific factual allegations of the Complaint.

3. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondents and Respondents' employees, agents and all persons acting under or for Respondents. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondents consent and agree to pay a civil penalty in the amount of six thousand seven hundred dollars (\$6,700), in the manner described below in this paragraph:

- a. Payment is due within 30 calendar days from the date written on the Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case for the amount, payable to "Treasurer, United States of America," to:

via U.S. Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

via Federal Express, Airborne, or other commercial carrier:

U.S. EPA
Lockbox 360859
Mellon Client Service Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

via Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA=021030004
TREAS NYC/CTR/
BNF=/AC-68011008

IPAC:

Payment may also be made through the Intra-Governmental Payment and Collection System. EPA Agency Location Code: 68011008

A copy of the check or IPAC report shall be sent simultaneously to:

Brenda Morris, Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, CO 80202-2466

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- e. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. The obligations of Respondents under this Consent Agreement, including obligations for the payment of penalties, shall be subject to the availability of appropriate funds provided by the Department of Interior Appropriations Bill enactment, and no provisions herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 10 U.S.C. §1341.

7. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with RCRA and its implementing regulations.

8. Failure by Respondents to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this Consent Agreement.

10. The undersigned representative of Respondents certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he/she represents to the terms and conditions of this Consent Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

12. Each party shall bear its own costs and attorney fees in connection with this matter.

13. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**

Complainant.

Date: 9/7/06

By: SIGNED
Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 9/7/06

By: SIGNED
Sharon L. Kercher, Director
Technical Enforcement Program

Date: 9/12/06

By: SIGNED
Brenda L. Morris
Enforcement Attorney
Legal Enforcement Program

**BUREAU OF INDIAN AFFAIRS GREAT PLAINS
REGIONAL OFFICE ROADS DEPARTMENT AND
STANDING ROCK AGENCY BRANCH OF ROADS,**

Respondents.

Date: 9/6/06

By: SIGNED
Acting Director, Bureau of Indian Affairs
Michael R. Smith
Print name of signatory

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **BUREAU OF INDIAN AFFAIRS, GREAT PLAINS, STANDING ROCK RESERVATION, DOCKET NO.: RCRA-08-2006-0002** was filed with the Regional Hearing Clerk on September 13, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda L. Morris, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on September 13, 2006, to:

Thomas R. Bartman, Attorney Advisor
Division of Indian Affairs
Office of Solicitor
U. S. Department of the Interior
1849 C Street, NW (Mail Stop 6456-MIB)
Washington, DC 20240

Telefaxed to:

U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

September 13, 2006

SIGNED _____
Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON SEPTEMBER 13, 2006**